

ASSEMBLY BILL

No. 1745

**Introduced by Committee on Revenue and Taxation (Charles
Calderon (Chair), Arambula, Eng, Feuer, and Hayashi)**

March 22, 2007

An act to amend Section 53601 of the Government Code and to amend Sections 75.52, 2504, 2613, 3362, 3372, 3691, 3692.4, 4911, and 5140 of the Revenue and Taxation Code, relating to government finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1745, as introduced, Committee on Revenue and Taxation. Government finance.

(1) Existing law authorizes the legislative body of a local agency that has a sinking fund or money in its treasury that is not required for immediate needs to invest in specified investments, including, among other things, bonds issued by the state and the United States.

This bill would authorize these local agencies to also invest in registered treasury notes and bonds issued by any of the 50 United States, as specified.

(2) Existing law imposes penalties upon taxpayers that pay their property taxes after specified delinquency dates. Existing law requires a property tax penalty to be canceled when the reason for the delinquency is that the property tax bill was sent to the wrong address, and authorizes county officials to cancel property tax penalties in other circumstances. Existing law provides for a supplemental property tax roll for property tax assessments made after the property tax lien date.

This bill would specify that these provisions relating to canceling penalties also apply to penalties imposed as a result of delinquent payments for assessments on the supplemental property tax roll.

(3) Existing law defines the term negotiable paper, which includes bank checks, drafts, and express and post office money orders, for purposes of payment of any tax or assessment, or on a redemption.

This bill would instead limit the term negotiable paper to include checks, drafts, and money orders.

(4) Existing law requires all taxes on the secured roll to be paid at the tax collector's office and authorizes the board of supervisors to order that the taxes be collected in any other or additional location within that county.

This bill would instead require that all taxes be paid at the tax collector's office and would authorize the board of supervisors to order that the taxes be collected in any other or additional location, regardless of whether that other or additional location is within that county.

(5) Existing law requires a tax collector to attempt to sell property that has become tax defaulted 5 years or more after that property has become tax defaulted, or 3 years or more after the property becomes tax defaulted in the case of nonresidential commercial property, as defined, unless a county elects to instead have the 5-year period apply to nonresidential commercial property. Existing law requires the tax collector to provide a notice to taxpayers whose property is tax-defaulted, and requires that this notice specify the amount of taxes originally declared in default. Existing law requires the tax collector, in the case of an intended tax sale of tax-defaulted nonresidential commercial property, to notify specified parties at least 90 days before an intended sale or at least 90 days before the date upon which the property may be sold.

This bill would instead require the tax collector to notify taxpayers whose property is tax-defaulted of the amount necessary to redeem the property as of the date of the notice rather than the amount of taxes originally declared in default. This bill also would require the tax collector, in the case of an intended sale of nonresidential commercial property, to instead notify the specified parties not less than 45 days, but not more than 120 days before, either the intended sale date or the date upon which the property may be sold.

(6) Existing law authorizes, but does not require, the tax collector to attempt to sell property that has been tax-defaulted for 3 years or more and is subject to a nuisance abatement lien either on his or her own

volition or when requested by a city, county, city and county, or certain nonprofit entities pursuant to a specified statute. When a nonprofit organization makes such a request, existing law requires a city, county, or city and county, as applicable, to have a formal resolution of approval of the request.

This bill would authorize the tax collector to attempt to sell property that has been tax-defaulted for 3 years or more, regardless of whether it is subject to a nuisance abatement lien, when either requested by the specified entities pursuant to the specified statute or when requested by a person or entity that has a nuisance abatement lien on the property. This bill would also delete the requirement that a city, county, or city and county have a formal resolution of approval of a nonprofit entity's request to sell tax-defaulted property.

(7) Under existing law, if a taxpayer mistakenly pays property taxes on property that he or she does not own, the property tax is transferred to the property of the taxpayer for which the payment is intended. Existing law requires the county tax collector, upon being convinced by substantial evidence of a mistake, to refund property taxes mistakenly paid in the case in which there is no property of the taxpayer to which the payment may be applied. Existing law does not specify when the tax collector is to provide this refund.

This bill would require the tax collector, in the case in which there is no property of the taxpayer to which a mistaken property tax payment may be applied, to refund the mistakenly paid taxes at any time before a guaranty or certificate of title issues respecting the unintended property and before 2 years have elapsed since the date of the payment.

By changing the manner in which county officials administer tax-defaulted property notices and property tax refunds, this bill would impose a state-mandated local program.

(8) Existing law authorizes a taxpayer, his or her guardian or conservator, or the administrator of his or her estate to bring an action in superior court for a property tax refund if the refund claim was refused by local tax officials.

This bill would specify that these superior court actions may not be brought in the small claims division of the superior court.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53601 of the Government Code is
2 amended to read:

3 53601. This section shall apply to a local agency that is a city,
4 a district, or other local agency that does not pool money in
5 deposits or investments with other local agencies, other than local
6 agencies that have the same governing body. However, Section
7 53635 shall apply to all local agencies that pool money in deposits
8 or investments with other local agencies that have separate
9 governing bodies. The legislative body of a local agency having
10 money in a sinking fund or money in its treasury not required for
11 the immediate needs of the local agency may invest any portion
12 of the money that it deems wise or expedient in those investments
13 set forth below. A local agency purchasing or obtaining any
14 securities prescribed in this section, in a negotiable, bearer,
15 registered, or nonregistered format, shall require delivery of the
16 securities to the local agency, including those purchased for the
17 agency by financial advisers, consultants, or managers using the
18 agency's funds, by book entry, physical delivery, or by third-party
19 custodial agreement. The transfer of securities to the counterparty
20 bank's customer book entry account may be used for book entry
21 delivery.

22 For purposes of this section, "counterparty" means the other
23 party to the transaction. A counterparty bank's trust department
24 or separate safekeeping department may be used for the physical
25 delivery of the security if the security is held in the name of the
26 local agency. Where this section specifies a percentage limitation
27 for a particular category of investment, that percentage is applicable
28 only at the date of purchase. Where this section does not specify
29 a limitation on the term or remaining maturity at the time of the
30 investment, no investment shall be made in any security, other
31 than a security underlying a repurchase or reverse repurchase
32 agreement or securities lending agreement authorized by this
33 section, that at the time of the investment has a term remaining to

1 maturity in excess of five years, unless the legislative body has
2 granted express authority to make that investment either
3 specifically or as a part of an investment program approved by the
4 legislative body no less than three months prior to the investment:

5 (a) Bonds issued by the local agency, including bonds payable
6 solely out of the revenues from a revenue-producing property
7 owned, controlled, or operated by the local agency or by a
8 department, board, agency, or authority of the local agency.

9 (b) United States Treasury notes, bonds, bills, or certificates of
10 indebtedness, or those for which the faith and credit of the United
11 States are pledged for the payment of principal and interest.

12 (c) Registered state warrants or treasury notes or bonds of this
13 state, including bonds payable solely out of the revenues from a
14 revenue-producing property owned, controlled, or operated by the
15 state or by a department, board, agency, or authority of the state.

16 (d) *Registered treasury notes or bonds of any of the 50 United*
17 *States, including bonds payable solely out of the revenues from a*
18 *revenue-producing property owned, controlled, or operated by a*
19 *state or by a department, board, agency, or authority of any of the*
20 *50 United States.*

21 ~~(d)~~

22 (e) Bonds, notes, warrants, or other evidences of indebtedness
23 of any local agency within this state, including bonds payable
24 solely out of the revenues from a revenue-producing property
25 owned, controlled, or operated by the local agency, or by a
26 department, board, agency, or authority of the local agency.

27 ~~(e)~~

28 (f) Federal agency or United States government-sponsored
29 enterprise obligations, participations, or other instruments,
30 including those issued by or fully guaranteed as to principal and
31 interest by federal agencies or United States government-sponsored
32 enterprises.

33 ~~(f)~~

34 (g) Bankers acceptances otherwise known as bills of exchange
35 or time drafts that are drawn on and accepted by a commercial
36 bank. Purchases of bankers acceptances may not exceed 180 days'
37 maturity or 40 percent of the agency's money that may be invested
38 pursuant to this section. However, no more than 30 percent of the
39 agency's money may be invested in the bankers acceptances of
40 any one commercial bank pursuant to this section.

1 This subdivision does not preclude a municipal utility district
2 from investing any money in its treasury in any manner authorized
3 by the Municipal Utility District Act (Division 6 (commencing
4 with Section 11501) of the Public Utilities Code).

5 ~~(g)~~

6 (h) Commercial paper of “prime” quality of the highest ranking
7 or of the highest letter and number rating as provided for by a
8 nationally recognized statistical-rating organization (NRSRO).
9 The entity that issues the commercial paper shall meet all of the
10 following conditions in either paragraph (1) or paragraph (2):

11 (1) The entity meets the following criteria:

12 (A) Is organized and operating in the United States as a general
13 corporation.

14 (B) Has total assets in excess of five hundred million dollars
15 (\$500,000,000).

16 (C) Has debt other than commercial paper, if any, that is rated
17 “A” or higher by a nationally recognized statistical-rating
18 organization (NRSRO).

19 (2) The entity meets the following criteria:

20 (A) Is organized within the United States as a special purpose
21 corporation, trust, or limited liability company.

22 (B) Has programwide credit enhancements including, but not
23 limited to, overcollateralization, letters of credit, or surety bond.

24 (C) Has commercial paper that is rated “A-1” or higher, or the
25 equivalent, by a nationally recognized statistical-rating organization
26 (NRSRO).

27 Eligible commercial paper shall have a maximum maturity of
28 270 days or less. Local agencies, other than counties or a city and
29 county, may invest no more than 25 percent of their money in
30 eligible commercial paper. Local agencies, other than counties or
31 a city and county, may purchase no more than 10 percent of the
32 outstanding commercial paper of any single issuer. Counties or a
33 city and county may invest in commercial paper pursuant to the
34 concentration limits in subdivision (a) of Section 53635.

35 ~~(h)~~

36 (i) Negotiable certificates of deposit issued by a nationally or
37 state-chartered bank, a savings association or a federal association
38 (as defined by Section 5102 of the Financial Code), a state or
39 federal credit union, or by a state-licensed branch of a foreign
40 bank. Purchases of negotiable certificates of deposit may not

1 exceed 30 percent of the agency's money which may be invested
2 pursuant to this section. For purposes of this section, negotiable
3 certificates of deposit do not come within Article 2 (commencing
4 with Section 53630), except that the amount so invested shall be
5 subject to the limitations of Section 53638. The legislative body
6 of a local agency and the treasurer or other official of the local
7 agency having legal custody of the money are prohibited from
8 investing local agency funds, or funds in the custody of the local
9 agency, in negotiable certificates of deposit issued by a state or
10 federal credit union if a member of the legislative body of the local
11 agency, or any person with investment decisionmaking authority
12 in the administrative office manager's office, budget office,
13 auditor-controller's office, or treasurer's office of the local agency
14 also serves on the board of directors, or any committee appointed
15 by the board of directors, or the credit committee or the supervisory
16 committee of the state or federal credit union issuing the negotiable
17 certificates of deposit.

18 (i)

19 (j) (1) Investments in repurchase agreements or reverse
20 repurchase agreements or securities lending agreements of any
21 securities authorized by this section, as long as the agreements are
22 subject to this subdivision, including the delivery requirements
23 specified in this section.

24 (2) Investments in repurchase agreements may be made, on any
25 investment authorized in this section, when the term of the
26 agreement does not exceed one year. The market value of securities
27 that underlay a repurchase agreement shall be valued at 102 percent
28 or greater of the funds borrowed against those securities and the
29 value shall be adjusted no less than quarterly. Since the market
30 value of the underlying securities is subject to daily market
31 fluctuations, the investments in repurchase agreements shall be in
32 compliance if the value of the underlying securities is brought back
33 up to 102 percent no later than the next business day.

34 (3) Reverse repurchase agreements or securities lending
35 agreements may be utilized only when all of the following
36 conditions are met:

37 (A) The security to be sold on reverse repurchase agreement or
38 securities lending agreement has been owned and fully paid for
39 by the local agency for a minimum of 30 days prior to sale.

1 (B) The total of all reverse repurchase agreements and securities
2 lending agreements on investments owned by the local agency
3 does not exceed 20 percent of the base value of the portfolio.

4 (C) The agreement does not exceed a term of 92 days, unless
5 the agreement includes a written codicil guaranteeing a minimum
6 earning or spread for the entire period between the sale of a security
7 using a reverse repurchase agreement or securities lending
8 agreement and the final maturity date of the same security.

9 (D) Funds obtained or funds within the pool of an equivalent
10 amount to that obtained from selling a security to a counterparty
11 by way of a reverse repurchase agreement or securities lending
12 agreement shall not be used to purchase another security with a
13 maturity longer than 92 days from the initial settlement date of the
14 reverse repurchase agreement or securities lending agreement,
15 unless the reverse repurchase agreement or securities lending
16 agreement includes a written codicil guaranteeing a minimum
17 earning or spread for the entire period between the sale of a security
18 using a reverse repurchase agreement or securities lending
19 agreement and the final maturity date of the same security.

20 (4) (A) Investments in reverse repurchase agreements, securities
21 lending agreements, or similar investments in which the local
22 agency sells securities prior to purchase with a simultaneous
23 agreement to repurchase the security may only be made upon prior
24 approval of the governing body of the local agency and shall only
25 be made with primary dealers of the Federal Reserve Bank of New
26 York or with a nationally or state-chartered bank that has or has
27 had a significant banking relationship with a local agency.

28 (B) For purposes of this chapter, “significant banking
29 relationship” means any of the following activities of a bank:

30 (i) Involvement in the creation, sale, purchase, or retirement of
31 a local agency’s bonds, warrants, notes, or other evidence of
32 indebtedness.

33 (ii) Financing of a local agency’s activities.

34 (iii) Acceptance of a local agency’s securities or funds as
35 deposits.

36 (5) (A) “Repurchase agreement” means a purchase of securities
37 by the local agency pursuant to an agreement by which the
38 counterparty seller will repurchase the securities on or before a
39 specified date and for a specified amount and the counterparty will
40 deliver the underlying securities to the local agency by book entry,

1 physical delivery, or by third-party custodial agreement. The
2 transfer of underlying securities to the counterparty bank's
3 customer book-entry account may be used for book-entry delivery.

4 (B) "Securities," for purpose of repurchase under this
5 subdivision, means securities of the same issuer, description, issue
6 date, and maturity.

7 (C) "Reverse repurchase agreement" means a sale of securities
8 by the local agency pursuant to an agreement by which the local
9 agency will repurchase the securities on or before a specified date
10 and includes other comparable agreements.

11 (D) "Securities lending agreement" means an agreement under
12 which a local agency agrees to transfer securities to a borrower
13 who, in turn, agrees to provide collateral to the local agency.
14 During the term of the agreement, both the securities and the
15 collateral are held by a third party. At the conclusion of the
16 agreement, the securities are transferred back to the local agency
17 in return for the collateral.

18 (E) For purposes of this section, the base value of the local
19 agency's pool portfolio shall be that dollar amount obtained by
20 totaling all cash balances placed in the pool by all pool participants,
21 excluding any amounts obtained through selling securities by way
22 of reverse repurchase agreements, securities lending agreements,
23 or other similar borrowing methods.

24 (F) For purposes of this section, the spread is the difference
25 between the cost of funds obtained using the reverse repurchase
26 agreement and the earnings obtained on the reinvestment of the
27 funds.

28 (j)

29 (k) Medium-term notes, defined as all corporate and depository
30 institution debt securities with a maximum remaining maturity of
31 five years or less, issued by corporations organized and operating
32 within the United States or by depository institutions licensed by
33 the United States or any state and operating within the United
34 States. Notes eligible for investment under this subdivision shall
35 be rated "A" or better by a nationally recognized rating service.
36 Purchases of medium-term notes shall not include other instruments
37 authorized by this section and may not exceed 30 percent of the
38 agency's money that may be invested pursuant to this section.

39 (k)

(l) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (j), inclusive, or subdivisions (m) or (n) and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (j), inclusive, or subdivisions (m) or (n) and with assets under management in excess of five hundred million dollars (\$500,000,000).

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars (\$500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that

1 the companies may charge and shall not exceed 20 percent of the
2 agency's money that may be invested pursuant to this section.
3 However, no more than 10 percent of the agency's funds may be
4 invested in shares of beneficial interest of any one mutual fund
5 pursuant to paragraph (1).

6 ~~(t)~~

7 (m) Moneys held by a trustee or fiscal agent and pledged to the
8 payment or security of bonds or other indebtedness, or obligations
9 under a lease, installment sale, or other agreement of a local
10 agency, or certificates of participation in those bonds, indebtedness,
11 or lease installment sale, or other agreements, may be invested in
12 accordance with the statutory provisions governing the issuance
13 of those bonds, indebtedness, or lease installment sale, or other
14 agreement, or to the extent not inconsistent therewith or if there
15 are no specific statutory provisions, in accordance with the
16 ordinance, resolution, indenture, or agreement of the local agency
17 providing for the issuance.

18 ~~(m)~~

19 (n) Notes, bonds, or other obligations that are at all times secured
20 by a valid first priority security interest in securities of the types
21 listed by Section 53651 as eligible securities for the purpose of
22 securing local agency deposits having a market value at least equal
23 to that required by Section 53652 for the purpose of securing local
24 agency deposits. The securities serving as collateral shall be placed
25 by delivery or book entry into the custody of a trust company or
26 the trust department of a bank that is not affiliated with the issuer
27 of the secured obligation, and the security interest shall be perfected
28 in accordance with the requirements of the Uniform Commercial
29 Code or federal regulations applicable to the types of securities in
30 which the security interest is granted.

31 ~~(n)~~

32 (o) Any mortgage passthrough security, collateralized mortgage
33 obligation, mortgage-backed or other pay-through bond, equipment
34 lease-backed certificate, consumer receivable passthrough
35 certificate, or consumer receivable-backed bond of a maximum of
36 five years' maturity. Securities eligible for investment under this
37 subdivision shall be issued by an issuer having an "A" or higher
38 rating for the issuer's debt as provided by a nationally recognized
39 rating service and rated in a rating category of "AA" or its
40 equivalent or better by a nationally recognized rating service.

1 Purchase of securities authorized by this subdivision may not
2 exceed 20 percent of the agency's surplus money that may be
3 invested pursuant to this section.

4 ~~(o)~~

5 (p) Shares of beneficial interest issued by a joint powers
6 authority organized pursuant to Section 6509.7 that invests in the
7 securities and obligations authorized in subdivisions (a) to (n),
8 inclusive. Each share shall represent an equal proportional interest
9 in the underlying pool of securities owned by the joint powers
10 authority. To be eligible under this section, the joint powers
11 authority issuing the shares shall have retained an investment
12 adviser that meets all of the following criteria:

13 (1) The adviser is registered or exempt from registration with
14 the Securities and Exchange Commission.

15 (2) The adviser has not less than five years of experience
16 investing in the securities and obligations authorized in
17 subdivisions (a) to (n), inclusive.

18 (3) The adviser has assets under management in excess of five
19 hundred million dollars (\$500,000,000).

20 SEC. 2. Section 75.52 of the Revenue and Taxation Code is
21 amended to read:

22 75.52. (a) Taxes on the supplemental bill are due on the date
23 mailed and shall become delinquent as follows:

24 (1) If the bill is mailed within the months of July through
25 October, the first installment shall become delinquent at 5 p.m. on
26 December 10 of the same year. The second installment shall
27 become delinquent at 5 p.m. on April 10 of the next year.

28 (2) If the bill is mailed within the months of November through
29 June, the first installment shall become delinquent at 5 p.m. on the
30 last day of the month following the month in which the bill is
31 mailed. The second installment shall become delinquent at 5 p.m.
32 on the last day of the fourth calendar month following the date the
33 first installment is delinquent.

34 (b) If the taxes due are not paid on or before the date and time
35 they become delinquent, a penalty of 10 percent shall attach to
36 them.

37 (c) The cost enumerated in Section 2621 shall be collected after
38 the second installment is delinquent.

39 (d) If a delinquent date specified in subdivision (a) falls on a
40 Saturday, Sunday, or legal holiday, the time of delinquency is at

1 5 p.m. or at the close of business, whichever is later, on the next
2 following business day. If the board of supervisors, by adoption
3 of an ordinance or resolution, closes the county's offices for
4 business prior to the time of delinquency on the "next business
5 day" or for that whole day, that day shall be considered a legal
6 holiday for purposes of this section.

7 *(e) (1) The penalty imposed for delinquent taxes as provided*
8 *by this article shall be canceled if the assessee or fee owner*
9 *demonstrates to the tax collector that the delinquency is due to the*
10 *tax collector's failure to mail or electronically transmit the tax*
11 *bill to the address provided on the tax roll or electronic address*
12 *provided and authorized by the taxpayer or fee owner to the tax*
13 *collector. Penalties imposed may be canceled if the board of*
14 *supervisors, upon recommendation of the tax collector, has*
15 *authorized the tax collector to establish, and the tax collector has*
16 *so established, specific procedures for the consideration of penalty*
17 *cancellations. Those procedures may provide that penalties*
18 *imposed may be canceled by resolution of the county board of*
19 *supervisors upon the recommendation of the tax collector if the*
20 *assessee or fee owner demonstrate to the tax collector that the*
21 *delinquency is due to the county's failure to send a notice of taxes*
22 *to the owner of property acquired after the lien date on the secured*
23 *roll, provided payment of the amount of taxes due, minus any*
24 *penalties and costs, is made no later than June 30 of the fiscal*
25 *year in which the property owner is named as the assessee for*
26 *taxes coming due.*

27 *(2) With respect to a late, amended, or corrected tax bill, the*
28 *penalties imposed for delinquent taxes shall be canceled if the tax*
29 *amount is paid within 30 days following the date that bill is mailed*
30 *or electronically transmitted.*

31 *(3) Under no circumstance shall a taxpayer have fewer than 30*
32 *days to pay without penalty.*

33 SEC. 3. Section 2504 of the Revenue and Taxation Code is
34 amended to read:

35 2504. As used in this division, "negotiable paper" means bank
36 checks and, drafts, and express and post office money orders.

37 SEC. 4. Section 2613 of the Revenue and Taxation Code is
38 amended to read:

39 2613. All taxes ~~on the secured roll~~ shall be paid at the tax
40 collector's office unless the board of supervisors, upon

1 recommendation of the tax collector and on or before the day when
2 payments may be made, orders that taxes be collected in any other
3 or additional location ~~within the county~~.

4 SEC. 5. Section 3362 of the Revenue and Taxation Code is
5 amended to read:

6 3362. The published notice shall show:

7 (a) The date of the notice.

8 (b) (1) That on July 1, five years or more will have elapsed
9 since the property became tax defaulted; or

10 (2) That, on July 1, three years or more in the case of
11 nonresidential commercial property, as defined in Section 3691,
12 in an applicable county will have elapsed since the property became
13 tax defaulted; or

14 (3) That, on July 1, in the case of real property that could serve
15 the public benefit by providing housing or services directly related
16 to low-income persons, three years or more have elapsed, and a
17 request has been made by a city, county, city and county, or
18 nonprofit organization, pursuant to Section 3692.4, to offer that
19 property at the next scheduled public auction.

20 (c) That, unless sooner redeemed or an installment plan of
21 redemption is initiated, the property will be sold.

22 (d) That the power to sell for nonpayment of taxes arises if the
23 property remains tax defaulted at 12:01 a.m. on July 1.

24 (e) That if the property is sold for nonpayment of taxes the right
25 of redemption will terminate.

26 (f) The official who will furnish all information concerning
27 redemption.

28 (g) The fiscal year for which the defaulted taxes were levied.

29 (h) A description of the property. The assessments contained
30 in this notice shall be numbered in ascending numerical order.

31 (i) ~~The amount of taxes originally declared in default~~ *necessary*
32 *to redeem the property as of the date specified in the publication*
33 *opposite the description of the property.*

34 (j) The name of the assessee on the current roll.

35 (k) The street address of the property, if any, shown on the
36 county assessment records.

37 SEC. 6. Section 3372 of the Revenue and Taxation Code is
38 amended to read:

39 3372. The notice shall show:

40 (a) The affidavit of tax default.

1 (b) The fact that the real property may be redeemed by the
2 payment of the amount of defaulted taxes together with those
3 additional penalties and fees as prescribed by law, or that the real
4 property may be redeemed under an installment plan of redemption.

5 (c) The official who will furnish all information concerning
6 redemption.

7 (d) The following information relating to each assessment of
8 tax-defaulted property:

9 (1) The name of the assessee, and where there is more than one
10 valuation the name of the assessee need be listed only once. For
11 the purposes of this section, the name of the assessee may be the
12 name of the assessee as shown on the current roll.

13 (2) The description of the property.

14 (3) The total amount ~~which was originally declared in default~~
15 *necessary to redeem the property as of the date specified in the*
16 *publication.*

17 This information required to be published is the “published
18 delinquent list.” If any tax-defaulted property is redeemed, the
19 information relating to the property may be omitted from any
20 publication.

21 SEC. 7. Section 3691 of the Revenue and Taxation Code is
22 amended to read:

23 3691. (a) (1) (A) Five years or more, or three years or more
24 in the case of nonresidential commercial property, after the property
25 has become tax defaulted, the tax collector shall have the power
26 to sell and shall attempt to sell in accordance with Section 3692
27 all or any portion of tax-defaulted property that has not been
28 redeemed, without regard to the boundaries of the parcels, as
29 provided in this chapter, unless by other provisions of law the
30 property is not subject to sale. Any person, regardless of any prior
31 or existing lien on, claim to, or interest in, the property, may
32 purchase at the sale. In the case of tax-defaulted property that has
33 been damaged by a disaster in an area declared to be a disaster
34 area by local, state, or federal officials and whose damage has not
35 been substantially repaired, the five-year period set forth in this
36 subdivision shall be tolled until five years have elapsed from the
37 date the damage to the property was incurred.

38 (B) A county may elect, by an ordinance or resolution adopted
39 by a majority vote of its entire governing body, to have the

1 five-year time period described in subparagraph (A) apply to
2 tax-defaulted nonresidential commercial property.

3 (C) For purposes of this subdivision, “nonresidential commercial
4 property” means all property except the following:

5 (i) A constructed single-family or multifamily unit that is
6 intended to be used primarily as a permanent residence, is used
7 primarily as a permanent residence, or that is zoned as a residence,
8 and the land on which that unit is constructed.

9 (ii) Real property that is used and zoned for producing
10 commercial agricultural commodities.

11 (2) When a part of a tax-defaulted parcel is sold, the balance
12 continues subject to redemption and shall be separately valued for
13 the purpose of redemption in the manner provided by Chapter 2
14 (commencing with Section 4131) of Part 7.

15 (3) The tax collector shall provide notice of an intended sale
16 under this subdivision in the manner prescribed by Sections 3704
17 and 3704.5 and any other applicable statute. If the intended sale
18 is of nonresidential commercial property that has been tax-defaulted
19 for fewer than five years, all of the following apply:

20 (A) On or before the notice date, the tax collector shall also
21 mail, in the manner specified in paragraph (1) of subdivision (c)
22 of Section 2924b of the Civil Code, notice containing any
23 information contained in the publication required under Sections
24 3704 and 3704.5 to, as applicable, all of the following:

25 (i) The parties specified in paragraph (2) of subdivision (c) of
26 Section 2924b of the Civil Code.

27 (ii) Each taxing agency specified in paragraph (3) of subdivision
28 (c) of Section 2924b of the Civil Code.

29 (iii) Any beneficiary of a deed of trust or a mortgagee of any
30 mortgage recorded against the nonresidential commercial property,
31 and any assignee or vendee of these beneficiaries or mortgagees.

32 (B) For purposes of this paragraph:

33 (i) “Notice date” means a date ~~at least 90 days~~ *not less than 45*
34 *days nor more than 120 days* before an intended sale or ~~at least~~
35 ~~90 days~~ *not less than 45 days nor more than 120 days* before the
36 date upon which the property may be sold.

37 (ii) “Recording date of the notice of default” as used in
38 subdivision (c) of Section 2924b of the Civil Code means a date
39 that is 30 days before the notice date.

1 (iii) “Deed of trust or mortgage being foreclosed” as used in
2 subdivision (c) of Section 2924b of the Civil Code means the
3 defaulted tax lien.

4 (b) (1) (A) Three years or more after the property has become
5 tax defaulted and ~~subject to a nuisance abatement lien or a request~~
6 has been made by a city, county, city and county, or nonprofit
7 organization; pursuant to Section 3692.4, *or a request has been*
8 *made by a person or entity that has recorded a nuisance abatement*
9 *lien on that property*, to offer that property at the next scheduled
10 ~~public auction tax sale~~, the tax collector shall have the power to
11 sell and may sell all or any portion of tax-defaulted property that
12 has not been redeemed, without regard to the boundaries of parcels,
13 as provided in this chapter *at the next scheduled tax sale*, unless
14 by other provisions of law the property is not subject to sale. Any
15 person, regardless of any prior or existing lien on, claim to, or
16 interest in, the property, may purchase at the sale.

17 (B) When a part of a tax-defaulted parcel is sold, the balance
18 continues subject to redemption and shall be separately valued for
19 the purpose of redemption in the manner provided by Chapter 2
20 (commencing with Section 4131) of Part 7.

21 (2) Before the tax collector sells vacant residential developed
22 property pursuant to this subdivision, actual notice, by certified
23 mail, shall be provided to the property owner, if the property
24 owner’s identity can be determined from the county assessor’s or
25 county recorder’s records. The tax collector’s power of sale shall
26 not be affected by the failure of the property owner to receive
27 notice.

28 (3) Before the tax collector sells vacant residential developed
29 property pursuant to this subdivision, notice of the sale shall be
30 given in the manner specified by Section 3704.7.

31 (c) The amendments made to this section by the act adding this
32 subdivision apply to property that becomes tax defaulted on or
33 after January 1, 2005.

34 SEC. 8. Section 3692.4 of the Revenue and Taxation Code is
35 amended to read:

36 3692.4. (a) Notwithstanding any other provision of law, any
37 county, city, city and county, or any nonprofit organization as
38 defined in Section 3772.5, may request the tax collector to bring
39 to the next scheduled public auction any residential real property
40 that meets all of the following requirements:

1 (1) The property taxes have been delinquent for at least three
2 years.

3 (2) The real property will serve the public benefit of providing
4 housing directly related to low-income persons.

5 (3) The real property is not occupied by the owner as his or her
6 principal place of residence.

7 (b) Every request submitted to the tax collector shall include
8 the following:

9 (1) A formal resolution of the governing board of the county,
10 city, city and county, or nonprofit organization, requesting the
11 accelerated auction of the real property and stating the public
12 benefit.

13 (2) A written plan for the development, rehabilitation, or
14 proposed use of the real property and how low-income persons
15 will be served.

16 ~~(3) If the request is from a nonprofit organization, the request~~
17 ~~shall have a formal resolution of approval from the city council of~~
18 ~~the city in which the real property is located, or from the board of~~
19 ~~supervisors of the county if the real property is located in an~~
20 ~~unincorporated area.~~

21 (c) Upon receiving a request as provided by this section, the tax
22 collector shall include the real property in the next scheduled public
23 auction.

24 (d) (1) If the real property is acquired by a nonprofit
25 organization at auction, a deed restriction shall be placed on the
26 real property, requiring the real property to be used for low-income
27 housing for a period of at least 30 years.

28 (2) (A) In lieu of the 30-year restriction required by paragraph
29 (1), the deed may provide for equity sharing upon resale, if the
30 real property is a single-family home that will be sold by the
31 nonprofit organization to a low-income owner-occupant.

32 (B) To the extent not in conflict with another public funding
33 source or law, all of the following shall apply to an equity-sharing
34 agreement provided for by the deed:

35 (i) Upon resale by an owner-occupant of the home, the
36 owner-occupant of the home shall retain the market value of any
37 improvements, the downpayment, and his or her proportionate
38 share of appreciation. The nonprofit organization shall recapture
39 any initial subsidy and its proportionate share of appreciation,

1 which shall then be used for the purpose of providing financial
2 assistance to low-income homebuyers.

3 (ii) For purposes of this subdivision, the initial subsidy shall be
4 equal to the fair market value of the home at the time of initial sale
5 to the nonprofit organization minus the initial sale price to the
6 low-income owner-occupant, plus the amount of any downpayment
7 assistance or mortgage assistance. If upon resale by the
8 owner-occupant the market value is lower than the initial market
9 value, then the value at the time of the resale shall be used as the
10 initial market value.

11 (iii) For purposes of this subdivision, the nonprofit
12 organization's proportionate share of appreciation shall be equal
13 to the ratio of the initial subsidy to the fair market value of the
14 home at the time of initial sale.

15 (e) This section may not be construed to preclude the
16 application, to the real property or the current owners of that
17 property, of any other provision of law not in conflict with this
18 section.

19 SEC. 9. Section 4911 of the Revenue and Taxation Code is
20 amended to read:

21 4911. (a) If an assessee or agent of the assessee, by mistake,
22 pays the tax on other than the property intended and by substantial
23 evidence convinces the tax collector that the payment was intended
24 for another property, the tax collector shall cancel the credit on
25 the unintended property and transfer the payment to the property
26 intended as prescribed in this article at any time before a guaranty
27 or certificate of title issues respecting the unintended property and
28 before two years have elapsed since the date of payment.

29 (b) If through no fault of the assessee or agent of the assessee,
30 a tax payment is credited to property other than the property
31 intended and the taxpayer by substantial evidence convinces the
32 tax collector that the payment should have been credited to another
33 property, the tax collector shall cancel the credit on the unintended
34 property and transfer the payment to the property intended as
35 prescribed in this article at any time before a guaranty or certificate
36 of title issues respecting the unintended property and before two
37 years have elapsed since the date of the payment.

38 (c) If any person mistakenly pays an amount of tax and there is
39 no property of that person in the county to which that payment
40 properly applies, the tax collector shall, by being convinced upon

1 substantial evidence that the payment was a mistake, cancel the
2 payment and return the amount paid to that person, *as prescribed*
3 *in this article at any time before a guaranty or certificate of title*
4 *issues respecting the unintended property and before two years*
5 *have elapsed since the date of the payment.*

6 SEC. 10. Section 5140 of the Revenue and Taxation Code is
7 amended to read:

8 5140. The person who paid the tax, his or her guardian or
9 conservator, the executor of his or her will, or the administrator
10 of his or her estate may bring an action only in the superior court,
11 *but not in the small claims division of the superior court*, against
12 a county or a city to recover a tax which the board of supervisors
13 of the county or the city council of the city has refused to refund
14 on a claim filed pursuant to Article 1 (commencing with Section
15 5096) of this chapter. No other person may bring such an action;
16 but if another should do so, judgment shall not be rendered for the
17 plaintiff.

18 SEC. 11. If the Commission on State Mandates determines
19 that this act contains costs mandated by the state, reimbursement
20 to local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.